

### REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-50 remain pending in the case. Claims 1-50 are rejected.

### DRAWING OBJECTIONS

The instant Office Action states that Figure 5A is objected because it is asserted that Figure 5A includes illegible handwriting. Applicants respectfully submit that formal drawings replacing the original drawings were submitted on January 26, 2004, with the Drawing Transmittal Letter. Moreover, the Office of Initial Patent Examination indicated the Replacements Sheets were received on February 2, 2004. Applicants note that the replacement drawings are accessible on public PAIR and are included in the corresponding Patent Application Publication No. 2004/0236848 A1. In particular, Applicants respectfully submit that Figure 5A as submitted as a replacement sheet does not include any handwriting. Therefore, Applicant respectfully submits that Figure 5A overcomes the objection.

### DOUBLE PATENTING REJECTION

Claims 1-50 are provisionally rejected under the judicially created (nonstatutory) doctrine of obviousness-type double patenting as being unpatentable over Claims 1 and 36-74 of co-pending, commonly owned U.S. Patent Application No. 10/698,685 in view of United States Patent 6,665,706 by

Kenner et al, hereinafter referred to as "Kenner." A terminal disclaimer in compliance with 37 CFR §1.321 is being submitted concurrent with the instant response, thereby obviating the double patenting rejection.

35 U.S.C. § 112, second paragraph

According to the instant Office Action, Claims 7, 16, 26, 35, 41, 47 and 50 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, it is asserted that the phrase "'absolutely necessary' in claims 7, 16, 26, 35, 41, 47 and 50 is a relative term which renders the claim indefinite" and "[t]he term 'absolutely indefinite' is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonable appraised of the scope of the invention" (Office Action mailed June 21, 2007; page 3).

Applicants respectfully submit that the phrase "absolutely necessary" recited in Claims 7, 16, 26, 35, 41, 47 and 50 is definite and is in accordance with 35 U.S.C. § 112, second paragraph. The instant specification, at page 25, lines 11-21, recites (emphasis added):

The service location manager 120 uses the information to predict and detect the occurrence of problems that can affect the media service sessions. In an embodiment, the handoff determination module 122 provides this functionality. Hence, the service location manager 120 pro-actively or in anticipation of these problems (e.g., service provider malfunctions, reduced processing speed by a service provider, etc.) initiates handoff of media service sessions among the service providers 130A-130D so that the client device does not experience a reduced quality of service. Moreover, the information enables the service location manager 120 to initiate the

handoff before a need for the handoff is absolutely necessary,  
increasing quality of service and reducing interruptions to the client  
device. That is, fault tolerance is supported by the system 100.

Accordingly, Applicants respectfully submit that the specification does  
provide a standard for ascertaining the phrase "absolutely necessary" as  
claimed. Accordingly, Applicants respectfully submit that the basis for rejecting  
independent Claims 7, 16, 26, 35, 41, 47 and 50 under 35 U.S.C. § 112, second  
paragraph, is overcome.

35 U.S.C. §102(e)

According to the instant Office Action, Claims 1-50 are rejected under 35  
U.S.C. §102(e) as being anticipated by Kenner" Applicants have reviewed the  
cited reference and respectfully submit that the embodiments as recited in  
Claims 1-50 are not anticipated by Kenner for at least the following rationale.

Applicants respectfully direct the Examiner to independent Claim 1 that  
recites that an embodiment of the present invention is directed to (emphasis  
added):

A method of managing handoff of media service sessions  
among service providers in a network, said method comprising:  
receiving information associated with said media service  
sessions at a service manager;  
using said information at said service manager to determine  
whether to initiate a handoff of any of said media service sessions  
from a service provider to another service provider; and  
if it is determined to initiate said handoff, initiating said  
handoff.

Independent Claims 10, 19, 29, 38, 42, 44 and 48 include similar recitations. Claims 2-9 that depend from independent Claim 1, Claims 11-18 that depend from independent Claim 10, Claims 20-28 that depend from independent Claim 19, Claims 30-37 that depend from independent Claim 29, Claims 39-41 that depend from independent Claim 38, Claim 43 that depends from independent Claim 42, Claims 45-47 that depend from independent Claim 44, and Claims 49 and 50 that depend from independent Claim 48 also include these recitations.

MPEP §2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants respectfully submit that the rejection of the Claims is improper as the rejection of Claims 1-50 does not satisfy the requirements of a *prima facie* case of anticipation as claim embodiments are not met by the cited reference. Applicants respectfully submit that Kenner does not teach or suggest the claimed embodiments in the manner set forth in independent Claims 1, 10, 19, 29, 38, 42, 44 and 48.

Applicants respectfully submit that Kenner does not teach, describe or suggest “using said information at said service manager to determine whether to initiate a handoff of any of said media service sessions from a service provider to another service provider” (emphasis added) as claimed.

Applicants understand Kenner to teach a system whereby a user terminal determines a best delivery sites or group of sites (col. 12, lines 36-42). With reference to FIG. 1 of Kenner, a network topology including a user terminal 12 and a mirror service provider (MSP) 32 are shown. Kenner recites that a “management function is facilitated by the use of a configuration utility 34 and a client program 36 run within a storage medium (i.e. random access memory) on the user terminal 12” (emphasis added; col. 8, lines 6-9). Moreover, “the configuration utility 34 determines which delivery site, or group of delivery sites, is best for the user terminal 12 (step 50)” (col. 12, lines 38-40).

Accordingly, Applicants respectfully submit that Kenner teaches that a configuration utility at a user terminal determines a delivery site. Therefore, Applicants respectfully submit that Kenner does not teach, describe or suggest “using said information at said service manager” (emphasis added) as claimed.

In summary, Appellants respectfully submit that the rejections of the Claims are improper as the rejection of Claims 1-50 does not satisfy the

requirements of a *prima facie* case of anticipation as the claims are not met by the cited reference.

Applicants respectfully assert that Kenner does not teach, disclose or suggest the claimed embodiments as recited in independent Claims 1, 10, 19, 29, 38, 42, 44 and 48 because the rejection does not satisfy the requirements of a *prima facie* case of anticipation as the claimed embodiments are not met by the cited reference. Therefore, Applicants respectfully submit that Claims 1, 10, 19, 29, 38, 42, 44 and 48 overcome the rejection under 35 U.S.C. § 102(e), and that these claims are thus in a condition for allowance.

Therefore, Applicants respectfully submit that Kenner also does not teach or suggest the additional claimed features as recited in Claims 2-9 that depend from independent Claim 1, Claims 11-18 that depend from independent Claim 10, Claims 20-28 that depend from independent Claim 19, Claims 30-37 that depend from independent Claim 29, Claims 39-41 that depend from independent Claim 38, Claim 43 that depends from independent Claim 42, Claims 45-47 that depend from independent Claim 44, and Claims 49 and 50 that depend from independent Claim 48. Therefore, Applicants respectfully submit that Claims 2-9, 11-18, 20-28, 30-37, 39-41, 43, 45-47, 49 and 50 also overcome the rejection under 35 U.S.C. § 102(e), and are in a condition for allowance as being dependent on an allowable base claim.

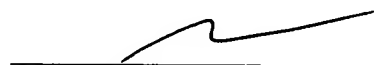
CONCLUSION

Based on the arguments presented above, Applicants respectfully assert that Claims 1-50 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these Claims.

Respectfully submitted,

WAGNER BLECHER L.L.P.

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